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FEB 16 2010

In re Application of	:	
Kanekar, et al.	:	
Application No. 10/630,178	:	DECISION ON APPLICATION
Filed: July 29, 2003	:	FOR
Atty Docket No.101. 01935	:	PATENT TERM ADJUSTMENT

This is a decision on the "37 CFR 1.705(b) REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA) INDICATED IN THE NOTICE OF ALLOWANCE," filed October 31, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one thousand, one hundred and three (1,103) days to at least one thousand, two hundred fourteen (1,214) days.

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **1,214 days**. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On August 7, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1,103 days. Applicants timely filed the instant application for patent term adjustment.¹

Applicants assert that the patent term should be adjusted by an additional 111 days pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(2) because the Office failed to respond within four

¹ PALM finance records indicate the issue fee was paid on October 31, 2009.

months to the reply filed March 5, 2008. Applicants note that the Office action mailed June 20, 2008, was vacated by correspondence mailed August 13, 2008, and a new Office action was not mailed until October 24, 2008. Accordingly, applicants assert that the patent term should be adjusted by an additional 111 days.

Applicants' argument is well taken and is supported by a review of the file record. It is noted that a reply was filed March 5, 2008, and an Office action was mailed responsively on June 20, 2008. The Office action mailed June 20, 2008, was vacated, however, by a letter mailed August 13, 2008. As the Office action mailed June 20, 2008, was vacated and a restriction/election requirement mailed on October 24, 2008, the restriction/election requirement mailed on October 24, 2008, is the Office action under 35 U.S.C. 132 that should have been used in the calculation of the period of adjustment under 37 CFR 1.702(a)(2). 37 CFR 1.703(a)(2) provides that:

The period of adjustment under § 1.702(a) is the sum of the following periods:

The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing if either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, which ever occurs first[.]

Accordingly, the period of Office delay pursuant to 37 CFR 1.703(a)(2) began July 6, 2008, and ended on October 24, 2008, with the mailing of the restriction/election requirement. Thus, a period of reduction of 111 days will be entered for Office delay pursuant to 37 CFR 1.703(a)(2).

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 1,214 days (1,243 (1,132 + 111) days of Office delay - 29 days of applicant delay).

The \$200.00 fee set forth in 37 CFR 1.18(e) was received on October 31, 2009. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the

Application No. 10/630,178

Page 3

Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Friday
Date: 2/12/2010

PALM INTRANET

Time: 13:04:44

PTA Calculations for Application: 10/630178

Application Filing Date:	07/29/2003	PTO Delay (PTO):	1132
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	1214
PTO Delay Adjustment:	111		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	02/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	111		
70	08/07/2009	MAIL NOTICE OF ALLOWANCE			
69	08/06/2009	ISSUE REVISION COMPLETED			
68	08/04/2009	DOCUMENT VERIFICATION			
67	08/04/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
66	08/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
65	08/03/2009	NOTICE OF ALLOWABILITY			
61	07/13/2009	DATE FORWARDED TO EXAMINER			
60	06/19/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
59	07/13/2009	DATE FORWARDED TO EXAMINER			
58	06/19/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
57	07/13/2009	DISPOSAL FOR A RCE / CPA / R129			
56	06/19/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	09/24/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
54	03/19/2009	MAIL FINAL REJECTION (PTOL - 326)			
53	03/16/2009	FINAL REJECTION			
52	09/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	01/06/2009	DATE FORWARDED TO EXAMINER			
50	12/24/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
49	12/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	10/24/2008	MAIL RESTRICTION REQUIREMENT			

47	10/22/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
46	09/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	08/12/2008	CASE DOCKETED TO EXAMINER IN GAU			
44	08/13/2008	MAIL NOTICE OF WITHDRAWN ACTION			
43	08/12/2008	DATE FORWARDED TO EXAMINER			
42	08/12/2008	LETTER WITHDRAWING / VACATING OFFICE ACTION			
40	06/20/2008	MAIL FINAL REJECTION (PTOL - 326)			
39	06/18/2008	FINAL REJECTION			
38	04/11/2008	DATE FORWARDED TO EXAMINER			
37	03/05/2008	RESPONSE AFTER NON-FINAL ACTION		29	35
36	03/05/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	11/05/2007	MAIL NON-FINAL REJECTION	1132		-1
34	10/29/2007	NON-FINAL REJECTION			
30	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
27	10/15/2007	FLAGGED FOR 5/25			
26	09/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
25	09/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	09/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	11/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	09/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	08/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	03/11/2004	REFERENCE CAPTURE ON IDS			
18	06/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	03/16/2005	REFERENCE CAPTURE ON IDS			
16.7	03/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	03/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/16/2004	MISCELLANEOUS INCOMING LETTER			
14.7	09/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

13	05/26/2004	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
12	05/26/2004	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
10	04/19/2004	TRANSFER INQUIRY TO GAU			
9	01/07/2004	APPLICATION RETURN FROM OIPE			
8	01/07/2004	APPLICATION RETURN TO OIPE			
7	01/06/2004	APPLICATION DISPATCHED FROM OIPE			
6	01/07/2004	APPLICATION IS NOW COMPLETE			
5	07/29/2003	PGPUBS NONPUB REQUEST			
4	12/30/2003	CASE CLASSIFIED BY OIPE			
3	12/30/2003	CLEARED BY OIPE CSR			
2	12/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/29/2003	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to [OASIS](#) | [Home page](#)